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Attorneys for Defendant
Judge Melanie Andress-Tobiasson

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

VIVIAN WRIGHT-BOLTON,

Plaintiff,

vs.

MELANIE ANDRESS-TOBIASSON,
individually; THE ESTATE OF JENNIFER
BOLTON deceased; KOCKA & BOLTON,
LLC, a Nevada Limited Liability Company;

Defendants.

CASE NO. 2:14-cv-01612-APG-PAL

JOINT MOTION TO EXTEND DISCOVERY CUT-OFF DATE
(First Request)

COMES NOW, Plaintiff, Vivian Wright-Bolton, by and through her attorney, CAL J. POTTER, ESQ., of Potter Law Offices, Kocka & Bolton, LLC, by and through their attorneys, CHRIS T. RASMUSSEN, ESQ., of the Law Firm of Rasmussen & Kang, and Defendant, Melanie Andress-Tobiasson, by and through her attorneys, WALTER R. CANNON, ESQ. and THOMAS D. DILLARD, JR., ESQ., of the Law Firm of Olson, Cannon, Gormley, Angulo & Stoberski, and, pursuant to LR 26-4 and LR 6-1, move this Honorable Court for an Order extending the current discovery cut-off date of August 18, 2015 for a period of ninety (90) days, through and including November 18, 2015.

1 This Motion is made and based upon all of the pleadings and papers on file herein, this
 2 Motion, the Points and Authorities attached hereto, the Stipulation of counsel, and a proposed
 3 Amended Discovery Plan and Scheduling Order attached hereto as Exhibit "A", the Affidavit of
 4 defense counsel, Walter R. Cannon, attached hereto as Exhibit "B", together with such other and
 5 further evidence and argument as might be had at the hearing of said Motion.

6 DATED this 10th day of August, 2015.

7 POTTER LAW OFFICES

OLSON, CANNON, GORMLEY
 ANGULO & STOBERSKI

9 BY: /s/ Cal J. Potter, III
 10 CAL J. POTTER, III, ESQ.
 Nevada Bar No. 1988
 C.J. POTTER, IV, ESQ.
 11 Nevada Bar No. 13225
 1125 Shadow Lane
 12 Las Vegas, Nevada 89102
 Attorneys for Plaintiff

BY: /s/ Walter R. Cannon
 WALTER R. CANNON, ESQ.
 Nevada Bar No. 1505
 THOMAS D. DILLARD, JR., ESQ.
 Nevada Bar No. 6270
 9950 W. Cheyenne Avenue
 Las Vegas, Nevada 89129
 Attorneys for Defendant
 Melanie Andress-Tobiasson

14 RASMUSSEN & KANG

16 BY: /s/ Chris T. Rasmussen
 17 CHRIS T. RASMUSSEN, ESQ.
 Nevada Bar No. 7149
 330 S. Third Street, Suite 1010
 18 Las Vegas, Nevada 89101
 Attorney for Defendant
 19 Kocka & Bolton

21 POINTS AND AUTHORITIES

22 I. FACTS:

23 This is a civil rights action filed by Plaintiff, Vivian Wright-Bolton, against Defendant
 24 Las Vegas Township Justice of the Peace, Melanie Andress-Tobiasson (Judge Tobiasson),
 25 Jennifer Bolton—now deceased, and the Law Firm of Kocka & Bolton. In her Complaint,
 26 Plaintiff alleges that Judge Tobiasson subjected her to a due process violation by signing an
 27 Order on February 12, 2014 "which contained findings supporting [Plaintiff's former spouse's]
 28 application for a Canadian divorce in violation of Plaintiff's due process rights. Plaintiff further

1 alleges that Judge Tobiasson conspired with the Co-Defendants in the alleged violation, thereby
 2 causing "protracted litigation concerning the custody of the couples two minor children."

3 Even though the Complaint in the case was filed on September 30, 2014, the Defendants
 4 were not served with the Complaint until February 3, 2015. On February 10, 2015, Defendants
 5 Bolton and Kocka & Bolton, LLC filed their Answer. Thirteen days later, Judge Tobiasson filed
 6 her Answer and a Motion for Summary Judgment asserting that she was entitled to judicial
 7 immunity for all of the claims that had been filed against her.

8 On April 2, 2015, Plaintiff filed her Opposition to Defendant Tobiasson's Motion for
 9 Summary Judgment and a Countermotion seeking additional discovery time pursuant to FRCP
 10 56(d). On April 20, 2015, Defendant Tobiasson filed her Reply in Support of her Motion for
 11 Summary Judgment and Defendant's Motion and Plaintiff's Countermotion remain pending
 12 before Judge Gordon at this time.

13 The parties initial Scheduling Conference was held on April 9, 2015. Four days later, the
 14 Court entered its own Discovery Plan and Scheduling Order fixing the discovery cut-off date for
 15 August 18, 2015. Consistent with this Order, the parties filed a Joint Status Report with the
 16 Court on June 19, 2015, which advised the Court that Defendant's Motion for Summary
 17 Judgment and Plaintiff's FRCP 56(d) Countermotion were pending before Judge Gordon and the
 18 parties anticipated the need to take approximately 6 to 8 depositions should Judge Gordon deny
 19 Defendant's Motion for Summary Judgment.

20 Inasmuch as Judge Gordon has still not ruled on Defendant's Motion or Plaintiff's
 21 Countermotion, the parties now come before this Court seeking to extend the discovery cut-off
 22 date for a period of ninety (90) days.

23 II. DISCOVERY COMPLETED TO DATE:

24 1. On June 23, 2015, Defendant Tobiasson served Interrogatories and Request for
 25 Production of Documents on the Plaintiff.

26 2. Defendant Tobiasson's deposition is presently calendared for August 12, 2015, at the
 27 hour of 1:00 P.M.

28 . . .

3. Plaintiff's deposition is presently scheduled for August 18, 2015, at the hour of 10:00 A.M.

III. GOOD CAUSE EXISTS FOR A 90 DAY CONTINUANCE OF THE DISCOVERY CUT-OFF DATE:

LR 26-4 provides in the pertinent part as follows:

Applications to extend any date set by the discovery plan, scheduling order, or other order must, in addition to satisfying the requirements of LR 6-1, be supported by a showing of good cause for the extension. All motions or stipulations to extend a deadline set forth in a discovery plan shall be received by the Court no later than twenty-one (21) days before the expiration of the subject deadline. A request made after the expiration of the subject deadline shall not be granted unless the movant demonstrates that the failure to act was the result of excusable neglect.

As a reading of the Rule indicates, any request for an extension of the discovery cut-off date must first be based upon a showing of good cause. In this case, the parties believes that such cause exists and would, therefore, urge the Court to grant the extension.

As noted above, Defendant Tobiasson's Motion for Summary Judgment, predicated upon a claim of judicial immunity, has been fully briefed and under submission to the Court since April 20, 2015. The Motion, if granted, will be dispositive of all of the claims against Judge Tobiasdson and most, if not all, of the claims against the remaining Defendants. The parties had been withholding pursuing their discovery pending Judge Gordon's ruling of their Motions. If Judge Gordon granted the Motion, the discovery in question would not be necessary, thereby saving the parties and their clients both substantial time and expense. However, it now appears that the Court's decision on the Motion will take longer than initially anticipated and, therefore, the parties have recently begun pursuing the discovery that they need in the case. While the two primary parties, Plaintiff and Defendant Tobiasson's, depositions are currently scheduled, there remains another 6 to 7 additional depositions that have to be taken. These depositions will involve at least one other sitting Justice of the Peace and at least 3 Canadian witnesses that will address not only divorce proceedings in the Canadian Court system, but Plaintiff's expenses associated with these proceedings.

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1 The parties are, of course, mindful that this Motion was not filed 21 days prior to the
 2 present discovery cut-off date (LR 26-4). However, they further believe that the lateness of the
 3 instant Motion was the result of excusable neglect based primarily upon defense counsel, Walter
 4 R. Cannon's, absence from the office due to a family emergency involving his 94 year old father.

5 As indicated in the Affidavit of Walter R. Cannon attached hereto as Exhibit "B", Mr.
 6 Cannon was absent from his office for substantial periods of time between July 27, 2015 and
 7 August 7, 2015 due to medical and dental emergencies associated with his 94 year old father. As
 8 a consequence, July 28, 2015 for the 21 day Rule came and went without Mr. Cannon's
 9 knowledge. Inasmuch as Mr. Cannon had taken the responsibility for preparing a Stipulation for
 10 the continuance of the discovery cut-off date, the parties would ask the Court to grant their
 11 request notwithstanding the lateness of the attached Stipulation.

12 IV. CONCLUSION:

13 Based upon and in view of all the foregoing, the parties would respectfully request that
 14 this Court enter an Order extending the discovery cut-off date for a period of ninety (90) days,
 15 through and including November 18, 2015. Attached hereto as Exhibit "A" is a Stipulation of

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the parties setting forth the information required by LR 26-4(a)-(c) and a proposed Amended
Discovery Plan and Scheduling Order which reflects the new discovery cut-off date, as well as all
other dates required by LR 26-1 and LR 26-4(d).

Respectfully submitted this 10th day of August, 2015.

POTTER LAW OFFICES

OLSON, CANNON, GORMLEY
ANGULO & STOBERSKI

BY: /s/ Cal J. Potter, III
CAL J. POTTER, III, ESQ.
Nevada Bar No. 1988
C.J. POTTER, IV, ESQ.
Nevada Bar No. 13225
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Attorneys for Plaintiff

BY: /s/ Walter R. Cannon
WALTER R. CANNON, ESQ.
Nevada Bar No. 1505
THOMAS D. DILLARD, JR., ESQ.
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9950 W. Cheyenne Avenue
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Melanie Andress-Tobiasson

RASMUSSEN & KANG

BY: /s/ Chris T. Rasmussen
CHRIS T. RASMUSSEN, ESQ.
Nevada Bar No. 7149
330 S. Third Street, Suite 1010
Las Vegas, Nevada 89101
Attorney for Defendant
Kocka & Bolton

ORDER

IT IS SO ORDERED.

DATED: August 10, 2015


MAGISTRATE JUDGE

Law Offices of
OLSON, CANNON, GORMLEY, ANGULO & STOBERSKI
A Professional Corporation
9950 West Cheyenne Avenue
Las Vegas, Nevada 89129
(702) 384-4012 Telecopier (702) 383-0701

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 10th day of August, 2015, I served the above JOINT MOTION TO EXTEND DISCOVERY CUT-OFF DATE (First Request) through the CM/ECF system of the United States District Court for the District of Nevada (or, if necessary, by U.S. Mail, first class, postage pre-paid), upon the following:

Cal J. Potter, III Esq.
POTTER LAW OFFICES
1125 Shadow Lane
Las Vegas, Nevada 89102
Phone: 385-1954
Fax: 385-9081
Attorney for Plaintiff

Chris T. Rasmussen, Esq.
RASMUSSEN & KANG
330 S. Third Street, Suite 1010
Las Vegas, Nevada 89101
Attorney for Defendant Kocka & Brown

/s/ Nanette D. Langenderfer
AN EMPLOYEE OF OLSON, CANNON,
GORMLEY, ANGULO & STOBERSKI

EXHIBIT A

WALTER R. CANNON, ESQ.
Nevada Bar No. 001505
THOMAS D. DILLARD, JR., ESQ.
Nevada Bar No. 006270
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tdillard@ocgas.com
Attorneys for Defendant
Judge Melanie Andress-Tobiasson

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

VIVIAN WRIGHT-BOLTON,

Plaintiff,

vs.

MELANIE ANDRESS-TOBIASSON,
individually; THE ESTATE OF JENNIFER
BOLTON deceased; KOCKA & BOLTON,
LLC, a Nevada Limited Liability Company;

Defendants.

CASE NO. 2:14-cv-01612-APG-PAL

STIPULATION TO CONTINUE THE DISCOVERY CUT-OFF DATE
(First Request)

COMES NOW Plaintiff, Vivian Wright-Bolton, by and through her attorney, CAL J. POTTER, ESQ., of Potter Law Offices, Kocka & Bolton, LLC, by and through their attorneys, CHRIS T. RASMUSSEN, ESQ., of the Law Firm of Rasmussen & Kang, and Defendant, Melanie Andress-Tobiasson, by and through her attorneys, WALTER R. CANNON, ESQ. and THOMAS D. DILLARD, JR., ESQ., of the Law Firm of Olson, Cannon, Gormley, Angulo & Stoberski, and hereby stipulate, agree and make joint application to extend the discovery cut-off date from August 18, 2015, to and including November 18, 2015. This Stipulation is made and based upon the following facts and for the following reasons:

I. INTRODUCTION:

This is a civil rights action filed by Plaintiff, Vivian Wright-Bolton, against Defendant Las Vegas Township Justice of the Peace, Melanie Andress-Tobiasson (Judge Tobiasson), Jennifer Bolton--deceased--and the Law Firm of Kocka & Bolton. In her Complaint, Plaintiff alleges that Judge Tobiasson subjected her to a due process violation by signing an Order on February 12, 2014 "which contained findings supporting [Plaintiff's former spouse's] application for a Canadian divorce in violation of Plaintiff's due process rights. Plaintiff further alleges that Judge Tobiasson conspired with the Co-Defendants in the alleged violation, thereby causing "protracted litigation concerning the custody of the couples two minor children."

Even though the Complaint in the case was filed on September 30, 2014, the Defendants were not served with the Complaint until February 3, 2015. On February 10, 2015, Defendants Bolton and Kocka & Bolton, LLC filed their Answer. Thirteen days later, Judge Tobiasson filed her Answer and a Motion for Summary Judgment asserting that she was entitled to judicial immunity for all of the claims that had been raised against her.

On April 2, 2015, Plaintiff filed her Opposition to Judge Tobiasson's Motion and a Countermotion seeking additional discovery time pursuant to FRCP 56(d). On April 20, 2015, Defendant Tobiasson filed her Reply in Support of her Motion for Summary Judgment. At this time, both Judge Tobiasson's Motion for Summary Judgment and Plaintiff's Countermotion remain pending before Judge Gordon.

The parties initial Scheduling Conference was held on April 9, 2015. Four days later, the Court entered its own Discovery Plan and Scheduling Order fixing the discovery cut-off date on August 18, 2015. Consistent with this Order, the parties filed a Joint Status Report with the Court on June 19, 2015, which advised the Court that Defendant's Motion for Summary Judgment and Plaintiff's Countermotion under FRCP 56(d) remain pending before Judge Gordon and the parties anticipated the need to take approximately 6 to 8 depositions should Judge Gordon deny any or all of Defendant's Motion for Summary Judgment.

...

...

Inasmuch as Judge Gordon has still not ruled on Defendant's Motion for Plaintiff's Countermotion, the parties now come before this Court seeking to extend the discovery cut-off date for a period of ninety (90) days.

II. DISCOVERY COMPLETED TO DATE:

1. On June 23, 2015, Defendant Tobiasson served Interrogatories and Request for Production of Documents on the Plaintiff.

2. Defendant Tobiasson's deposition is presently calendared for August 12, 2015, at the hour of 1:00 P.M.

3. Plaintiff's deposition is presently scheduled for August 18, 2015, at the hour of 10:00 A.M.

III. DISCOVERY REMAINING TO BE TAKEN:

1. The deposition of Eighth Judicial District Court Family Judge Gloria O'Malley;

2. The deposition of Las Vegas Justice of the Peace Karen Bennett-Haron;

3. The depositions of 3 individuals in British Columbia, Canada, regarding the Wright-Bolton divorce proceedings in that jurisdiction and the expenses—including attorney's fees and costs—associated with those proceedings; and

4. The deposition of two local witnesses regarding the alleged relationship between Judge Tobiasson and Jennifer Bolton,

IV. REASONS THAT THE REMAINING DISCOVERY WAS NOT COMPLETED DURING THE PRESENT DISCOVERY PERIOD:

The primary reason that the parties have not completed their discovery to date lies principally with the Motion for Summary Judgment filed by Judge Tobiasson concurrently with her Answer on February 13, 2015. This Motion is based upon judicial immunity and would be dispositive of most, if not all, of the claims against both Defendants should it be granted by Judge Gordon. The Motion was fully briefed by April of 2015 and the parties were hopeful of receiving the Court's ruling by this time. Unfortunately, Defendant's Motion remains under submission and, therefore, the parties again attempted to schedule their discovery in early July, 2015. However, scheduling conflicts among counsel and some of the prospective witnesses have

1 allowed the scheduling of only the deposition of Judge Tobiasson (August 12, 2015) and Plaintiff
 2 (August 18, 2015) to date. The parties believe that if the Court grants them the extension
 3 requested by this Stipulation, that they should be able to complete all of their discovery within
 4 the extended discovery period.

5 V. PROPOSED DISCOVERY SCHEDULE:

6 Based upon the foregoing, the parties hereby respectfully request that the Court enter an
 7 Order extending the current discovery cut-off date for a period of 90 days from August 18, 2015
 8 through and including November 18, 2015 and establish the following Amended Discovery Plan
 9 and Scheduling Order:

- 10 1. Discovery cut-off date: November 18, 2015.
- 11 2. Initial expert disclosure date: September 18, 2015.
- 12 3. Rebuttal expert disclosure date: October 21, 2015.
- 13 4. Dispositive Motion date: December 18, 2015.
- 14 5. Date for filing the parties' Joint Pretrial Order: January 18, 2016. (Unless dispositive
 15 motions are filed, in which case the date for filing the Joint Pretrial Order shall be suspended
 16 until 30 days after the decision on the dispositive motion or further Order of this Court).

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The parties have entered into this Stipulation in order to complete their discovery and prepare for the filing of Pretrial Motions. It is no the intent of the parties to delay the conclusion of the matter. Rather, the parties wish, in good faith, to obtain any and all necessary information to evaluate their respective cases for settlement and trial purposes. No trial date has yet been scheduled.

This Stipulation is entered into this 10th day of August, 2015.

POTTER LAW OFFICES

OLSON, CANNON, GORMLEY
ANGULO & STOBERSKI

BY: /s/ Cal J. Potter, III
CAL J. POTTER, III, ESQ.
Nevada Bar No. 1988
C.J. POTTER, IV, ESQ.
Nevada Bar No. 13225
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Attorneys for Plaintiff

BY: /s/ Walter R. Cannon
WALTER R. CANNON, ESQ.
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Attorneys for Defendant
Melanie Andress-Tobiasson

RASMUSSEN & KANG

BY: /s/ Chris T. Rasmussen
CHRIS T. RASMUSSEN, ESQ.
Nevada Bar No. 7149
330 S. Third Street, Suite 1010
Las Vegas, Nevada 89101
Attorney for Defendant
Kocka & Bolton

ORDER

IT IS SO ORDERED.

DATED: _____

MAGISTRATE JUDGE

Law Offices of
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9950 West Cheyenne Avenue
Las Vegas, Nevada 89129
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EXHIBIT B

AFFIDAVIT OF WALTER R. CANNON

STATE OF NEVADA)
COUNTY OF CLARK) ss:

WALTER R. CANNON, being first duly sworn, deposes and says:

1. That Affiant is an attorney-at-law, duly licensed to practice before all of the Courts of the State of Nevada.

2. That Affiant is a member of the Law Firm of Olson, Cannon, Gormley, Angulo & Stoberski, the attorneys retained to represent the interests of Defendant Melanie Andress-Tobiasson in the instant matter.

3. That Affiant has personal knowledge concerning the facts and circumstances set forth in this Affidavit and makes this Affidavit based on said knowledge.

4. That Affiant is one of the primary care givers for his 94 year old father.

5. That between the period of July 27, 2015 and August 7, 2015, Affiant's father had medical and dental conditions which required frequent and extensive treatment from two medical doctors and one dentist.

6. That Affiant took his father to the doctors and dentist appointments and remained with his father throughout his treatment and recovery.

7. That as a consequence, Affiant was absent from his office for extended periods of time between July 27, 2015 and August 7, 2015 and, frankly, overlooked the July 28, 2015 date for the filing of any extension to extend the parties' current discovery cut-off date.

8. That Affiant apologizes to the Court for his oversight and asks that the Court grant the requested extension, notwithstanding Affiant's oversight.

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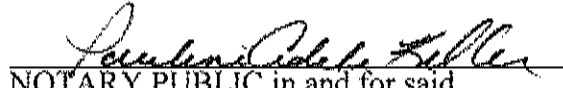
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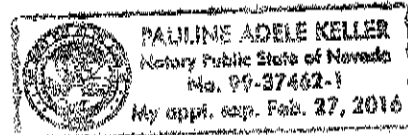
...

9. Further Affiant sayeth naught.


WALTER R. CANNON

SUBSCRIBED AND SWORN TO before me
this 10th day of August, 2015.


NOTARY PUBLIC in and for said
County and State



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